

रजिस्टर्ड नं० पी० ४६१



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, ७ अप्रैल, १९७३/१७ चैत्र, १८९५

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 29 March, 1973

No. 10-11/73-VS.—In pursuance of rule 135 of the rules of procedure and conduct of business of the Himachal Pradesh Legislative Assembly,

the Himachal Pradesh Restriction of Habitual Offenders Bill, 1973 (Bill No. 4 of 1973) as introduced in the Legislative Assembly.

S. S. KANWAR,
Secretary.

Bill No. 4 of 1973.

THE HIMACHAL PRADESH RESTRICTION OF HABITUAL OFFENDERS BILL, 1973

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to restrict the movements of habitual offenders in Himachal Pradesh and to require them to report themselves.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Restriction of Habitual Offenders Act, 1973.

Short title, extent and commencement.

(2) It extends to whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "Government" means the Government of Himachal Pradesh;

(ii) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force;

(iii) "Official Gazette" means Rajpatra, Himachal Pradesh;

(iv) "Order of Restriction" means any order issued in pursuance of section 8 or other provisions of this Act.

3. An order of restriction may either restrict a person in his movements to any area specified in the order, or require a person to report himself at such time, at such place, and in such mode, as may be specified therein, or both.

Scope of order of restriction.

4. (1) In any case in which a Magistrate may, under the provisions of section 110 of the Code of Criminal Procedure, 1898, require a person to show cause why he should not be ordered to execute a bond for his good behaviour, the Magistrate may in lieu of or in addition to so doing require such person to show cause why an order of restriction should not be made against him.

Order of restriction against habitual offenders.

(2) If the Magistrate in addition to requiring such person to show cause why he should not be ordered to execute a bond for his good behaviour requires him to show cause why an order of restriction should not be made against him, the proceedings in respect of the order of restriction may be taken jointly with the proceeding in respect of security and may be entered in and form part of the same record.

5. When a Magistrate deems it necessary to require a person to show cause why an order of restriction should not be made against him, he shall follow, as nearly as may be, the procedure laid down in sections 112, 113, 114, 115 and 117 of the Code of Criminal Procedure, 1898;

Procedure in making restriction.

Provided that —

5 of 1898

5 of 1898

5 of 1898

- (a) the order in writing referred to in section 112 of the said Code shall in addition to setting forth the substance of the information received state the term not exceeding three years during which the order of restriction shall be in force; but it need not state whether the order of restriction shall be an order restricting the person to any area or requiring him to report himself or doing both; and 5 of 1898
- (b) for the purposes of sub-section (2) of section 117 of the said Code an order of restriction shall be deemed to be equivalent to an order requiring security for good behaviour. 5 of 1898

Issue of
warrant in
lieu of or
in addition
to sum-
mons.

6. The provisions of section 90 of the Code of Criminal Procedure, 1898, shall be applicable to proceedings under this Act, as if they were proceedings under the said Code. 5 of 1898

Discharge
of person
informed
against.

7. If upon inquiry made in accordance with the preceding sections the Magistrate is of opinion that no order of restriction is necessary, the Magistrate shall make an entry to that effect on the record, and if he does not order the execution of a bond for good behaviour he shall if such person is in custody only for purposes of the inquiry release him or if such person is not in custody discharge him.

Making of
order of
restriction
and speci-
fying parti-
culars there-
in.

8. (1) If upon inquiry, as aforesaid, the Magistrate is of opinion that an order of restriction should be made against any person in respect of whom the inquiry is being made, the Magistrate shall make an order accordingly.

(2) (a) In his order under this section the Magistrate shall state whether the said person shall be restricted in his movements, or shall be required to report himself, or both.

(b) The order under this section shall conform to any rules made by the Government under section 17 and shall specify the area and the nature of the restrictions to be imposed and the places and the times and mode of report, as the case may be.

(3) No order of restriction shall be for a term exceeding three years or for a term longer than that specified in the order under section 5.

Order of
restriction
under sec-
tion 123 (3)
and section
565 of the
Code of
Criminal
Procedure.

9. (1) An order passed by a Sessions Judge under sub-section (3) of section 123 of the Code of Criminal Procedure, 1898, may be in addition to an order of restriction for the same or a less period. 5 of 1898

(2) In any case in which a court or Magistrate is empowered to take action against any convicted person under section 565 of the Code of Criminal Procedure, 1898, such court or Magistrate may if it or he thinks fit at the time of passing sentence on such person and in lieu of passing an order under the said section make an order of restriction against such person for a period not exceeding three years from the date of the expiry of such sentence. 5 of 1898

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

10. (1) No order shall be made restricting any person to any area unless the court or Magistrate making the order is satisfied that such person has adequate means of earning his livelihood within the area of restriction:

Means livelihood within area of restriction and change of area where means of livelihood are insufficient.

Provided that before making such order the court or Magistrate shall record and consider any objection which such person may urge in regard to the area proposed.

(2) If at any time any person against whom an order of restriction has been passed under this Act satisfies the court or Magistrate passing the order or the District Magistrate that he has no sufficient means of earning his livelihood within the area to which he is restricted, the court or Magistrate shall change the area.

11. The District Magistrate may, at any time, for sufficient reasons to be recorded in writing, cancel any order of restrictions passed by any court having jurisdiction in his district.

Power to cancel order of restriction.

12. The District Magistrate may, at any time, change the area to which the movements of any person have been restricted by an order of restriction passed under this Act:

Power to vary area of restriction.

Provided that such person shall be given an opportunity of showing cause why such change should not be made.

5 of 1898 13. When an order requiring security for good behaviour has been made against any person under section 118 of the Code of Criminal Procedure, 1898, by any court whether before or after this Act comes into force, the District Magistrate may, at any time before the period of security has expired, make in addition an order of restriction:

Power to add order of restriction to bond for good behaviour.

Provided that—

- (a) the period of the order of restriction shall not exceed the unexpired period of security; and
- (b) no order of restriction shall be passed against any person under this section until he has been given an opportunity of showing cause why such order should not be passed.

14. Any person against whom an order of restriction has been passed under this Act may appeal against such order to the Court of Session to have the order set aside.

Appeal.

5 of 1898 15. The provisions of the Code of Criminal Procedure, 1898, shall be applicable to appeals and petitions of revision under this Act as if they were appeals and petitions of revision presented under the said Code.

Applicability of the Code of Criminal Procedure to appeals and revisions.

16. (1) If any person against whom an order of restriction under this Act has been passed is found in any place beyond the area to which his movements have been restricted, without the pass prescribed by the rules made under this Act, or at a time or in a place not permitted by the conditions of his pass, he may be arrested without warrant by any police officer, member panchayat, village headman or village watchman.

Arrest of person found beyond prescribed limits.

(2) Any person, not being a police officer making an arrest under this section shall without unnecessary delay make over the person so arrested to a police officer, or in the absence of a police officer, take or send such person to the nearest police station.

Power to
make rules.

17. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power Government may make rules to provide for and regulate—

- (i) the areas to which persons may be restricted under this Act and the nature of the restrictions to be observed by them;
- (ii) the times and places at which and the mode in which persons shall report themselves when required to do so under this Act;
- (iii) the conditions as to holding passes under which persons may be permitted to leave the area to which their movements have been restricted; and
- (iv) the conditions to be inserted in any such pass in regard to—
 - (a) the places to which the holder of the pass may or may not go;
 - (b) the persons before whom from time to time he shall be bound to present himself; and
 - (c) the time during which he may be absent.

(3) All rules made under this section shall be published in the Official Gazette.

(4) Every rule under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Penalties.

18. (1) Whoever being a person against whom an order of restriction under this Act has been passed, violates such order or any rule made under this Act, shall on conviction by a Magistrate of the first class be punished—

- (a) on a first conviction, with imprisonment of either description for a term which may extend to one year, or with fine or with both;
- (b) on a second conviction, with imprisonment of either description for a term which may extend to two years; and
- (c) on any subsequent conviction, with imprisonment of either description for a term which may extend to three years.

(2) In computing the period for which an order of restriction shall remain in force, any period of imprisonment undergone in execution of a sentence passed under sub-section (1) shall be excluded.

Repeal and
savings.

19. The Restriction of Habitual Offenders (Punjab) Act, 1918, as in force in the areas added to Himachal Pradesh, under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

5 of 1918

31 of 1966

Provided that any order made, notification or direction issued, anything done or any action taken or any proceedings commenced or continued under the said Act, shall be deemed to have been made, issued, done, taken, commenced or continued under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

At present, the Restriction of Habitual Offenders (Punjab) Act, 1918 is in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. There is no corresponding law in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity in the matter of such law restricting the movements of habitual offenders throughout Himachal Pradesh, it is necessary to have a uniform law on the subject for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:

The 29th March, 1973.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

The Bill is solely intended to restrict the movements of habitual offenders in Himachal Pradesh and to require them to report themselves.

No financial implication is involved for the enforcement of this Legislation.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.

Simla-4, the 29 March, 1973

No. 10-7/73-VS.—In pursuance of rule 135 of the rules of Business and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Local Authorities Loans (Himachal Pradesh Amendment) Bill, 1973 (Bill No. 6 of 1973) as introduced in the Legislative Assembly is hereby published in the Himachal Pradesh Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 6 of 1973.

**THE LOCAL AUTHORITIES LOANS (HIMACHAL PRADESH
AMENDMENT) BILL, 1973**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Local Authorities Loans Act, 1914 (Act No. IX of 1914) in its application to Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Local Authorities Loans (Himachal Pradesh Amendment) Act, 1973.

Short title
extent ar
commenc
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In sub-section (1) of section 3 of the Local Authorities Loans Act, 1914, the following amendments shall be carried out:—

Amendm
of section

(a) for “:” occurring at the end of clause (v) the “,” shall be substituted; and

(b) after clause (v) so amended, the following clause (vi) shall be inserted, namely,—

“(vi) any other purpose which the State Government may declare to be a suitable one for which loans may be taken by Local Authorities generally or by a particular Local Authority:”.

3. The Local Authorities Loans (East Punjab Amendment) Act, 1949 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed, but notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

Repeal a
savings.

STATEMENT OF OBJECTS AND REASONS

The Local Authorities Loans Act, 1914, is applicable to the areas which comprised in Himachal Pradesh immediately before 1st November, 1966. But in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, the amendment made by the Punjab Government in 1949 is in force in addition to the other provisions of the Act. This amended provision is, however, not applicable to the areas which comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Act aforesaid and to enact a unified amending law for the whole of Himachal Pradesh.

This Bill seeks to achieve the aforesaid object.

SARLA SHARMA,
Minister-in-charge.

SIMLA:
The 29th March, 1973.

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FINANCIAL MEMORANDUM

No extra expenditure will be borne by the State Government for implementing the provisions of this Bill.

tepeal a
avings.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 2 of the Bill, empowers the State Government, to specify the purpose for which the Local Authorities can take the loan. This delegation is normal in character.

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDMENT BILL

| Section 1 | Existing provision 2 | Provision as it will stand after the enactment of the Bill 3 |
|--------------|--|---|
| 3 | <p>3. (1) A local authority may, subject to the prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely:—</p> <p>(i) the carrying out of any works which it is legally authorised to carry out,</p> <p>(ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,</p> <p>(iii) the prevention of the outbreak or spread of any dangerous epidemic disease,</p> <p>(iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),</p> <p>(v) the repayment of money previously borrowed in accordance with Law:</p> <p>Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force:</p> | <p>3. (1) A local authority may, subject to the prescribed conditions, borrow on the security of its funds or any portion thereof for any of the following purposes, namely:—</p> <p>(i) the carrying out of any works which it is legally authorised to carry out,</p> <p>(ii) the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity,</p> <p>(iii) the prevention of the outbreak or spread of any dangerous epidemic disease,</p> <p>(iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii),</p> <p>(v) the repayment of money previously borrowed in accordance with law,</p> <p>(vi) <u>any other purpose which the State Government may declare to be a suitable one for which loans may be taken by Local Authorities generally or by a particular Local Authority:</u></p> <p>Provided that nothing in clause (v) shall be deemed to empower a local authority to fix a period for the repayment of any money borrowed thereunder which, when the period fixed for the repayment of the money previously borrowed is taken into account, will exceed the maximum period fixed for the repayment of a loan by or under any enactment for the time being in force:</p> |

| 1 | 2 | 3 |
|---|--|--|
| | Provided further that, in the case of loans made by the appropriate Government, no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of floatation, of such loan have been approved by the appropriate Government: | Provided further that in the case of loans made by the appropriate Government, no amount exceeding twenty-five lakhs of rupees shall be borrowed unless the terms, including the date of floatation of such loan have been approved by the appropriate Government: |

Simla-4, the 29 March, 1973

No. 10-9/73-VS.--In pursuance of rule 135 of the rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Stage Carriages (Himachal Pradesh Amendment) Bill, 1973 (Bill No. 7 of 1973) as introduced in the Legislative Assembly is hereby published in the Himachal Pradesh Government Gazette.

S. S. KANWAR,
Secretary.

THE STAGE CARRIAGES (HIMACHAL PRADESH AMENDMENT) BILL, 1973

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to amend the Stage Carriages Act, 1861 (Act No. 16 of 1861) in its application to Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Stage Carriages (Himachal Pradesh Amendment) Act, 1973.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

16 of 1861

2. For section 4 of the Stage Carriages Act, 1861, the following section shall be substituted, namely:—

Amendment
of section 3.

“4. Charge for and duration of licence. (1) The State Government may make rules prescribing the fee to be paid for every such licence and the period for which the licence shall be issued:

Provided that the amount to be paid for a licence for a period of twelve months or less shall not exceed ten rupees and the rate of the fee shall not exceed one rupee for every month of the period of the licence:

Provided further that a fraction of a month shall be deemed to be a full month for the purposes of calculating the amount of the fee.

(2) When a licensed stage carriage is transferred to a new proprietor within the period of the licence, the name of such new proprietor shall, on application to that effect, be substituted in the licence for the name of the former proprietor without any further payment for the remaining period of that licence; and every person who appears by the licence to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

3 of 1924

3. The Stage Carriages (Punjab Amendment) Act, 1924 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed, but notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

Repeal and
savings.

31 of 1966

STATEMENT OF OBJECTS AND REASONS

The Stage Carriages (Punjab Amendment) Act, 1924 is not applicable to the areas as comprised in Himachal Pradesh immediately before the 1st November, 1966, but in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 the amendment made by the Punjab Government in 1924 is in force in addition to other provisions of the Act. With a view to bringing about uniformity, it is intended to have one unified law on the subject for the whole of Himachal Pradesh.

This Bill seeks to achieve the aforesaid object.

SARLA SHARMA,
Minister-in-charge.

SIMLA:
The 29th March, 1973.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the State Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THE AMENDMENT BILL

| Section 1 | Existing Provision 2 | Provision as it will stand after enactment of the Bill 3 |
|--------------|---|--|
| 4. | <i>Charge for and duration of licence.—</i> | 4. <i>Charge for and duration of licence.—</i> |
| | <p>For every such licence there shall be paid by the proprietor of the stage carriage the sum of five rupees or such less sum as the State Government may fix, and such licence shall be in force for one year from the date thereof.</p> <p>When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the licence for the name of the former proprietor without any further payment for that year; and every person who appears by the licence to be the proprietor shall be deemed to be such proprietor for all the purposes of this Act.</p> | <p>(1) The State Government may make rules prescribing the fee to be paid for every such licence and the period for which the licence shall be issued:</p> <p>Provided that the amount to be paid for a licence for a period of twelve months or less shall not exceed ten rupees and the rate of the fee shall not exceed one rupee for every month of the period of the licence:</p> <p>Provided further that a fraction of a month shall be deemed to be a full month for the purposes of calculating the amount of the fee.</p> <p>(2) When a licensed stage carriage is transferred to a new proprietor within the period of the licence, the name of such new proprietor shall, on application to that effect, be substituted in the licence for the name of the former proprietor without any further payment for the remaining period of that licence; and every person who appears by the licence to be the proprietor; shall be deemed to be such proprietor for all the purposes of this Act.</p> |

| 1 | 2 | 3 |
|---|---|--|
| | | <p>(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> |

Simla-4, the 29th March, 1973

No. 10-10/73-VS.—In pursuance of rule 135 of the rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Himachal Pradesh Factories (Control of Dismantling) Bill, 1973 (Bill No. 8 of 1973) as introduced in the Legislative Assembly is hereby published in the Himachal Pradesh Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 8 of 1973.

THE HIMACHAL PRADESH FACTORIES (CONTROL OF DISMANTLING) BILL, 1973

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to control the dismantling of Factories in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Factories (Control of Dismantling) Act, 1973.

Short title
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definition:

(a) “to dismantle” a factory means to remove from its position the machinery or part of the machinery of the factory, whereby such removal the factory is rendered wholly or partly useless for its purposes; but does not include any temporary removal within the premises of the factory of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs;

63 of 1948

(b) “factory” means a factory as defined in clause (m) of section 2 of the Factories Act, 1948, and includes a small scale industry unit with a capital investment of not more than seven lakhs and fifty thousand rupees irrespective of the number of persons employed.

Explanation.—In this clause, ‘Capital Investment’ means investment in plant and machinery only;

63 of 1948

(c) “machinery” has the meaning assigned to that word in clause (j) of section 2 of the Factories Act, 1948;

(d) “notification” means a notification published under proper authority in the Rajpatra, Himachal Pradesh; and

(e) “State Government” means the Government of Himachal Pradesh.

3. (1) No person shall, without the written permission of the State Government or of an officer authorised in this behalf by that Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.

Dismantl
a factory.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine or with both.

4. If the person contravening any of the provisions of sub-section (1) of section 3 is a company or other corporate body, every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due

Offences
corporatic

diligence to prevent such contravention, be deemed to be guilty of such contravention.

Powers of entry, examination, taking evidence, etc.

5. (1) Subject to any rules made by the State Government, any officer authorised in this behalf by that Government may, if he has reason to believe that any person, has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,—

- (a) enter with such assistance (if any), being persons in the service of the State Government, as he thinks fit, any place;
- (b) make such examination of the place and of any machinery, books or documents therein and take on the spot or elsewhere such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

(2) Whoever wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or documents in his custody or to comply with any demand for information or knowingly or recklessly makes to such officer a statement false in any material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Cognizance of offences.

6. No prosecution for any offence under this Act shall be instituted except by or with the previous sanction of the State Government or the officer authorised by the State Government for the purposes of sub-section (1) of section 3.

Bar of legal proceedings.

7. No suit, prosecution, or other legal proceedings shall lie against the State Government, or any officer for anything which is in good faith done, or intended to be done, under this Act.

Power to make rules.

8. (1) The State Government may, by notification make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

- (a) the procedure for the grant of the permission referred to in sub-section (1) of section 3;
- (b) for an appeal against a refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer, authorised in pursuance of that section; and
- (c) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20 of 1948

9. The East Punjab Factories (Control of Dismantling) Act, 1948 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Repeal and savings.

31 of 1966

Provided that anything done, any action taken or any proceedings commenced in exercise of the powers conferred by or under the said Act shall be deemed to have been done, taken or commenced under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

At present, the East Punjab Factories (Control of Dismantling) Act, 1948 (20 of 1948), which provides for control of dismantling factories, is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, while there is no such law in the areas which comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity in the matter of such law throughout the Himachal Pradesh, it is necessary to have a unified law for the whole of Himachal Pradesh, and this Bill seeks to achieve this object.

SIMLA:
The 29th March, 1973

LAL CHAND PRARTHI,
Minister-in-charge.

FINANCIAL MEMORANDUM

As the provisions of the Himachal Pradesh Factories (Control of Dismantling) Bill, 1973 will be enforced through the existing staff of Industries Department, Himachal Pradesh, there is no additional financial implication involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 8 of the Bill empowers the State Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.

Simla-4, the 29th March, 1973

No. 10-8/73-VS.—In pursuance of rule 135 of the rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, the Cattle Trespass (Himachal Pradesh Amendment) Bill, 1973 (Bill No. 9 of 1973) is hereby published in the Himachal Pradesh Government Gazette.

S. S. KANWAR,
Secretary.

Bill No. 9 of 1973.

**THE CATTLE TRESPASS (HIMACHAL PRADESH AMENDMENT)
BILL, 1973**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to amend the Cattle Trespass Act, 1871 (Act No. 1 of 1871) in its application to Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cattle Trespass (Himachal Pradesh Amendment) Act, 1973.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

1 of 1871

2. In section 3 of the Cattle Trespass Act, 1871 (hereinafter referred to as the principal Act), after the word "cattle" the words "does not include such bulls as are let loose for stud purposes and are specified by a notification in the Official Gazette in this behalf but" shall be inserted.

Amendmen
of section
3.

3. In section 10 of the principal Act, after the words "or any part thereof," the words "or any person authorised in this behalf, either by name or by virtue of office, by Government" shall be inserted.

Amendmer
of section
10.

4. In section 14 of the principal Act, for the word "seven" where it occurs for the first time, the word "three" and where it occurs for the second time, the word "four" shall be substituted.

Amendmer
of section
14.

5. After section 14 of the principal Act, the following section shall be inserted, namely:—

Insertion o
section
14-A.

"14-A Procedure for speedy disposal of certain unclaimed cattle.— Notwithstanding anything contained in section 14 where any unattached calf, kid or lamb or any decrepit, weak or maimed cattle is impounded, the poundkeeper shall report the fact to the officer specified in that section within twenty-four hours of the impounding and such officer shall, within twenty-four hours of such report and if such unattached calf, kid or lamb or cattle has not been claimed within twenty-four hours of its impounding cause them to be disposed of by auction or otherwise after a proclamation of its disposal has been made by beat of drum in the village and at the market place nearest to the place of seizure and in such other manner as may be prescribed:

Provided that if in the opinion of the Magistrate of the district the disposal of any such unattached calf, kid or lamb or cattle is not likely to fetch a fair price, he may send such cattle to any gosadan or pinjrapole.

Explanation.—For the purpose of this section the expression—

(a) "Gosadan" or "Pinjrapole" means a place or an institution where old, decrepit, wounded or otherwise non-productive or useless

cattle are kept for the purpose of maintenance and not for any commercial purpose, whether such place or institution is managed by Government or by a private society or person; and

- (b) "unattached calf, kid or lamb" means a calf, kid or lamb not attached to its mother.

Amendment
of section
17.

6. In section 17 of the principal Act, the words after the word "deposit" shall be omitted and shall be substituted with the following words, namely:—
"and, if no claim thereto is preferred within six months from the date of deposit or, if such claim having been preferred within this period is not established, such proceeds shall stand forfeited to the Government."

Amendment
of section
26.

7. Section 26 of the principal Act shall be renumbered as sub-section (1) and thereafter the following new sub-section shall be added, namely:—

"(2) While convicting such person, the Magistrate may also—

- (a) require him to pay to the person whose land, crop or produce has been damaged such compensation, not exceeding two hundred and fifty rupees, as may be considered reasonable, and

- (b) order that the cattle in respect of which the offence has been committed shall, in addition to any other penalty imposed, be forfeited to the Government."

Repeal and
savings.

8. The Cattle Trespass (Punjab Amendment) Act, 1952 and the Cattle Trespass (Punjab Amendment) Act, 1959 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

Provided that anything done or any action taken in exercise of the powers conferred by or under the provisions of the Acts so repealed shall to the extent of their being consistent with the provisions of this Act be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action taken.

24 of 1952
18 of 1959

31 of 1966

STATEMENT OF OBJECTS AND REASONS

At present, the Cattle Trespass Act, 1871 (Act No. 1 of 1871) which consolidates and amends the law relating to trespass by cattle, is in force with different amendments and provisions of law in the two different areas of Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas which comprised in Himachal Pradesh immediately before the 1st November, 1966. In the former, the amendments as affected in the said Act by the Punjab Acts No. 24 of 1952 and 18 of 1959, are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Acts aforesaid and to enact a unified amending law for the whole of Himachal Pradesh.

This Bill seeks to achieve the aforesaid object.

SARLA SHARMA,
Minister-in-charge.

SIMLA:
The 29th March, 1973.

FINANCIAL MEMORANDUM

No extra expenditure will be borne by the State Government for implementing the provisions of this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION
Nil

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDMENT BILL

| Section | Existing provisions | Provisions as it will stand after the enactment of the Bill |
|---------|---|--|
| 1 | 2 | 3 |
| 3 | <p>In this Act,—</p> <p>* * *</p> <p>“cattle” includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids, and</p> <p>* * *</p> | <p>3. In this Act,—</p> <p>* * *</p> <p>“cattle” does not include such bulls as are let loose for stud purposes and are specified by a notification in the Official Gazette in this behalf but includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids, and</p> <p>* * *</p> |
| 10 | <p>The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land, or the vendee or mortgagee of such crop or produce or any part thereof, may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situate.</p> <p>* * *</p> | <p>10. The cultivator or occupier of any land, or any person who has advanced cash for the cultivation of the crop or produce on any land, or the vendee or mortgagee of such crop or produce or any part thereof, or any person authorised in this behalf, either by name or by virtue of office, by Government, may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto or to any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to the pound established for the village in which the land is situate.</p> <p>* * *</p> |
| 14 | <p>If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in</p> | <p>14. If the cattle be not claimed within three days from the date of their being impounded, the pound-keeper shall report the fact to the officer in</p> |

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charge of the nearest police station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(a) the number and description of the cattle,

(b) the place where they were seized,

(c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the district by general or special order from time to time directs:

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

charge of the nearest police station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(a) the number and description of the cattle,

(b) the place where they were seized,

(c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within four days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

14-A

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14-A. Procedure for speedy

disposal of certain unclaimed cattle.—Notwithstanding anything contained in section 14 where any unattached calf, kid or lamb or any decrepit, weak or maimed cattle is impounded, the pound-keeper shall report the fact to the officer specified in that section

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within twenty-four hours of the impounding and such officer shall, within twenty-four hours of such report and if such unattached calf, kid or lamb or cattle has been claimed within twenty-four hours of its impounding cause them to be disposed of by auction or otherwise after a proclamation of its disposal has been made by beat of drum in the village and at the market place nearest to the place of seizure and in such other manner as may be prescribed:

Provided that if in the opinion of the Magistrate of the District the disposal of any such unattached calf, kid or lamb or cattle is not likely to fetch a fair price he may send such cattle to any gosadan or pinjrapole.

Explanation.—For the purpose of this section the expression—

(a) “Gosadan” or “Pinjrapole” means a place or an institution where old, decrepit, wounded or otherwise non-productive or useless cattle are kept for the purpose of maintenance and not for any commercial purpose, whether such place or institution is managed by Government or by a private society or person; and

(b) “unattached calf, kid or lamb” means a calf, kid or lamb not attached to its mother.

17 The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and, watering deducted under section 16 shall be paid over to the

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the

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pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13. The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit, for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, be deemed to hold them as part of the revenues of the State.

- 26 Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

The State Government by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words "fifty rupees" were substituted for the words "ten rupees", or as if there were both such reference and such substitution.

* * *

pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13. The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit, and, if no claim thereto is preferred within six months from the date of deposit or, if such claim having been preferred within this period is not established, such proceeds shall stand forfeited to the Government.

26. (1) Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

The State Government, by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of kind described in the notification instead of to pigs only, or as if the words "fifty rupees" were substituted for the words "ten rupees" or as if there were both such reference and such substitution.

(2) While convicting such person, the Magistrate may also—

(a) require him to pay to the person whose land, crop or produce has been dama-

| 1 | 2 | 3 |
|---|---|---|
| | | ged such compensation, not exceeding two hundred and fifty rupees, as may be considered reasonable, and (b) order that the cattle in respect of which the offence has been committed shall, in addition to any other penalty imposed, be for- feited to the Government. |

REVENUE DEPARTMENT
NOTIFICATION

Simla-2, the 4th April, 1973

No. 9-1/73-Rev. II.—In supersession of all previous notifications issued in this behalf and in exercise of the powers conferred upon him under section 52 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971, the Governor, Himachal Pradesh is pleased to delegate the powers of the State Government under section 54 of the said Act to the Deputy Commissioners Una, Hamirpur, Kangra, Solan and Bilaspur with immediate effect to be exercised within their respective jurisdictions.

By order,
Sd/-
Secretary.